

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DEMETRIUS BAILEY : CIVIL ACTION
v. : NO. 07-719
DAVID DIGUGLIELMO, et al. :
:

ORDER

AND NOW, this 28th day of January, 2010, in consideration of defendants' motion for summary judgment and plaintiff's response, it is ORDERED that defendants' motion is GRANTED IN PART and DENIED IN PART as follows:

- 1) Defendants' uncontested motion for judgment in favor of defendants DiGuglielmo, Pallot, Canino, Moyer, Knauer, Campbell, Stott and Stanishefski is GRANTED and the complaint against said defendants is hereby DISMISSED;
- 2) Defendants' motion for summary judgment in favor of defendants Banta and Lozar is DENIED with regard to plaintiff's claims of retaliatory assault and deliberate indifference arising out of the December 15, 2006 incident and GRANTED in all other respects;
- 3) Defendants' uncontested motion for summary judgment as to Count III of plaintiff's amended complaint is GRANTED and Count III of the amended complaint is DISMISSED; and
- 4) Defendants' uncontested motion for summary judgment as to plaintiff's allegations of retaliatory transfer from SCI-Graterford to SCI-Huntingdon is GRANTED and that claim is DISMISSED. In all other respects, plaintiff's

retaliation claim may proceed.

/s/ THOMAS N. O'NEILL, JR.
THOMAS N. O'NEILL, JR., J.